Australian Government
Department of the Prime Minister and Cabinet
Office of Best Practice Regulation

USER GUIDE TO
THE AUSTRALIAN GOVERNMENT GUIDE TO REGULATION

July 2014

CONTENTS

About this User Guide 3

Introduction 3

What is regulation? 3
When is a RIS required? 3
Some further detail on definitions 4

The three steps of the RIS process 4

Step 1: Preliminary assessment 4
Step 2: Prepare your RIS 5
Step 3: Ensuring transparency 10

Appendix 1: Other guidance material available 13

Best practice consultation 13
'Is a RIS required?' form 13
Carve-outs 13
Regulatory Burden Measurement framework 13
Regulatory Burden Measure 14
Cost-benefit analysis 14
Individuals 14
Commonwealth programmes 14
Short Form RIS templates 15
Competition and regulation 15
Risk analysis in RISs 15
Environmental valuation 15
Community organisations 16
Trade impact assessments 16
Independent reviews and the RIS process 16
Sunsetting legislative instruments 16
Post-implementation reviews 16

Appendix 2: Template for Cabinet submission RIS executive summary 18

About this User Guide

The *Australian Government Guide to Regulation* provides an overview of how to approach the task of making policy whenever regulation may be considered as a policy option. The principles in the *Guide to Regulation* are also useful for policy makers more generally.

The *Guide to Regulation* provides high-level principles for policy makers and an outline of the process for developing Regulation Impact Statements (RISs). It is intended for policy officers and anyone else involved in analysing, developing or implementing policy where regulation may be under consideration. An important point to remember is that the RIS is a departmental document. It is prepared to assist policy makers in developing and implementing policy and to inform their decisions.

This User Guide is designed to be read alongside the *Guide to Regulation*. It provides detail on the specifics of developing your RIS and having it assessed by the Office of Best Practice Regulation (OBPR).

Among other things, this guide will help you decide what type of RIS to undertake and provide helpful step-by-step advice.

Remember: help is always available from your Deregulation Unit and OBPR should you need it.

Introduction

What is regulation?

Regulation is any rule endorsed by government where there is an expectation of compliance. It includes legislation, regulations, quasi-regulations, and any other aspect of regulator behaviour that can influence or compel specific behaviour by business and the community. It also includes the red tape imposed by the Commonwealth's procurement, grants and the cost-recovery frameworks.

Quasi-regulations are rules or arrangements that are not established by a parliamentary process, but that can influence the behaviour of businesses, community organisations and individuals. They can include industry codes of practice, guidance notes, industry–government agreements and accreditation schemes.

When is a RIS required?

A RIS is required for all Cabinet submissions. This includes proposals of a minor or machinery nature and proposals with no regulatory impact on business, community organisations or individuals.

A RIS is also mandatory for any non-Cabinet decision made by any Australian Government entity if that decision is likely to have a measurable impact on businesses, community organisations, individuals or any combination of them.

A RIS is *not* required for non-Cabinet decision makers if the proposal is non-regulatory or the regulatory impact is of a minor or machinery nature. Where a RIS is not required but there are regulatory costs or savings, those costs or savings will need to be quantified and, where there is a net increase in regulatory costs, offsetting regulatory savings must be identified.[1] See the *Regulatory Burden Measurement framework* guidance note for more information (details are in Appendix 1).

[1] Changes in regulatory costs arising from changes in administrative processes (such as efficiency benefits from form simplification) should also be quantified according to the Regulatory Burden Measurement framework. You should seek OBPR's advice on whether a RIS would be required for such changes.

The agency responsible for bringing the proposal to the decision maker is responsible for ensuring that all RIS requirements are met.

Some further detail on definitions

In the RIS process, *businesses* include any organisation that aims to make a profit.

Community organisations can include not-for-profit entities pursuing a range of for-profit commercial activities. They can also include organisations engaged in advocacy or other activities that may not be primarily charitable.

An *individual* is a person who is subject to Australian law and interacts with government or is affected by regulation, and whose activities have an impact in Australia.

Regulation that affects individuals living outside Australia is in the scope of the RIS requirements if there is also an impact in Australia. See the *Individuals* guidance note for further information (details are in Appendix 1).

Minor changes do not substantially alter the existing regulatory arrangements for businesses, community organisations or individuals. For example, a minor change may involve a small one-off cost but no ongoing costs; examples are the introduction of an online application process, an indexation arrangement, or the setting of opening and closing dates in a fishing ground.

Machinery changes are consequential changes required as a result of a substantive regulatory decision. There is often limited discretion available to the decision maker. The fact that some of these changes may have a significant impact does not prevent them being machinery changes. For example, a machinery change may involve legislative changes to correct errors, administrative changes (such as name changes), changes to levy rates in line with movements in the Consumer Price Index or the updating of fee or levy thresholds.

The three steps of the RIS process

Step 1: Preliminary assessment

You must contact OBPR to confirm whether a RIS is required for any regulatory proposal and any proposal proceeding to Cabinet. It is a good idea to alert your Deregulation Unit to your proposal at this stage as well.

A Preliminary Assessment determines whether a proposal requires a RIS and helps to identify best practice for your policy process.

It is your responsibility to initiate a Preliminary Assessment as early during policy development as possible. This allows time for OBPR to advise on whether a RIS is required before a decision is made and to provide additional information on what will be best practice for your proposal. Early advice to your Deregulation Unit will also allow you to take into account any portfolio- or agency-specific requirements.

As soon as you have a rudimentary set of answers to the seven RIS questions (set out under ‘Step 2’ below), give a written summary to OBPR. The ‘Is a RIS required?’ template form on the OBPR website will help you identify the key features of your proposal and prepare the summary, but it is not compulsory to use the form (a link to the form is in Appendix 1).

The key questions you need to answer are:

- Will Cabinet be the decision maker?
- What is the policy problem?
- What are the objectives of government action?
- What policy options are available?
- What are the likely regulatory impacts of the proposal (including whether there are any market or competition impacts)?
- What are the likely regulatory costs of the proposal, including administrative, substantive compliance and delay costs?
- What are the key dates and timelines?

Once you have provided this information, OBPR will look to advise you within five working days whether a RIS is required. If one is required, OBPR will also advise on the type of RIS.

Where time allows, OBPR will assist you by advising on what best practice would be for your RIS. A follow-up discussion with OBPR and your Deregulation Unit can help to clarify this advice.

To help improve the efficiency of the Preliminary Assessment process, OBPR can grant a 'carve-out'. This is a standing agreement between OBPR and an agency that removes the need for a Preliminary Assessment to be sent to OBPR for minor or machinery changes that occur regularly. See Appendix 1 for more details on carve-outs.

What type of RIS is required?

Along with confirmation that a RIS is required, OBPR will provide written advice on whether a Long Form, Standard Form, or Short Form RIS is appropriate. See page 12 of the *Guide to Regulation* for a table explaining the three types of RIS and when they are recommended.

It is your responsibility to determine the type of RIS to prepare, in line with the table in the guide and the advice of OBPR.

The type of RIS must be justified in the RIS. Make sure your decision is justifiable, not just convenient.

Step 2: Prepare your RIS

You should start your RIS at the very beginning of the policy process to allow it to develop over time before a final decision is made. Don't wait to know all the answers before you start drafting.

OBPR is available to identify best practice for your policy process. Its views on best practice may also be provided to others, such as the Cabinet.

Except for Short Form RISs, OBPR is obliged to publish a public assessment of the adequacy of your RIS process. A poor process may draw OBPR's criticism in its final assessment of your RIS. If the shortcomings are serious enough, OBPR may require you to conduct a post-implementation review (PIR). Further information on PIRs is in the *Post-implementation reviews* guidance note.

What standard of RIS is required at each major decision point?

Major policy decision points include:

- an in-principle decision to regulate
- a decision by the Government to consult on a regulatory proposal
- a decision by the Government to announce regulation in a particular form (such as announcing an intention to legislate), but to consult on the detail of the final regulation
- a decision to preclude one or more options from further consideration
- a final decision on the proposal.

The content of a RIS depends on the type of RIS required. Long Form and Standard Form RISs require a detailed analysis of the proposal.

Those RISs should answer the following seven questions:

1. What is the policy problem you are trying to solve?
2. Why is government action needed?
3. What policy options are you considering?
4. What is the likely net benefit of each option?
5. Who will you consult about these options and how will you consult them?
6. What is the best option from those you have considered?
7. How will you implement and evaluate your chosen option?

A Short Form RIS requires an overview of the likely impacts. See the Short Form RIS template for more information (details are in Appendix 1).

Every RIS, except for non-regulatory proposals that are subject to a Short Form RIS, requires the quantification of the regulatory costs and offsets. You will need to consult your Deregulation Unit to discuss costing and offset issues in your portfolio.

Best practice will normally require you to submit your RIS for at least an Early Assessment (see below) before any major policy decision is made. This allows OBPR to give you a view on whether the current draft of the RIS is sufficient for the decision about to be made and/or as a basis for consultation.

Your RIS must pass through a Final Assessment before a final decision is reached.

Consultation will vary according to your issue and policy process but is mandatory before a final decision occurs.

When does OBPR assess the RIS?

OBPR can offer advice on preparing your RIS at any stage of the RIS process, but will formally assess its consistency and adequacy only after it has been certified by your secretary, deputy secretary or chief executive (whoever is relevant to the proposal). [2]

OBPR provides an Early Assessment and a Final Assessment. An Early Assessment is optional; a Final Assessment is not.

Early assessment

OBPR can provide an Early Assessment once you have completed the first four RIS questions, planned your consultations, and had your RIS certified by your secretary, deputy secretary or chief executive.

OBPR will then assess your RIS for adequacy against best practice and comment on how well you have answered the seven RIS questions and followed the 10 regulation principles.

At the Early Assessment stage, the focus will be on the first four RIS questions. OBPR will ask two important questions:

- Have you accurately costed the regulatory burden of all your policy options and offsets?
- Do you have an appropriate plan for consulting those affected by your policy?

Following this assessment, OBPR will write to tell you whether you have met best practice and whether the RIS is suitable as a basis for consultation or for a decision. Alternatively, OBPR will advise on the areas that need to be addressed for the RIS to meet best practice. OBPR will also provide direction for the development of your RIS before the Final Assessment.

Final assessment: the two-pass process

A final policy decision must always be accompanied by a RIS that has been through a Final Assessment.

The Final Assessment of a Long Form or Standard Form RIS is subject to a two-pass process, as described in the *Guide to Regulation*. It is up to you to decide when a Final Assessment is undertaken, although all seven RIS questions must be answered in full before this can happen.

For a Final Assessment, OBPR must be given details of the regulatory costs and offsets at least 10 business days before the RIS is provided to the decision maker (or is circulated for coordination comments for Cabinet submissions).

In the first pass, OBPR assesses your RIS and your process against best practice. In particular, it comments on whether your RIS is consistent with the Government's requirements, adequately addresses all seven RIS questions and provides an accurate description of the status of the RIS at each major decision point in the proposal's development.

OBPR provides formal written advice to you. You then have an opportunity to revise the RIS in response to OBPR's assessment.

[2] A template certification letter is available from the OBPR on request.

There is no limit on the time your agency may take to revise a RIS after receiving initial advice from OBPR, and no restriction on the number of times you can discuss a RIS with OBPR before submitting the RIS for the second pass.

For the second pass, OBPR relies heavily on the certification by your secretary, deputy secretary or chief executive in determining the adequacy of the RIS, provided the certification letter directly addresses in detail OBPR's written comments at the first pass. While a RIS may be adequate, OBPR also provides its assessment against best practice. Following this assessment, the RIS can proceed to the decision maker.

If OBPR assesses that your RIS is less than best practice, including where this is significant enough for the RIS to be found to be non-compliant with the requirements, you can nevertheless choose to bring forward the proposal for decision by the decision maker. OBPR will give you written advice of its assessment, including reasons.

If the proposal proceeds to the decision maker after the second pass, your RIS or an appropriate summary of it[3] and OBPR's assessment must be included with the documents provided to the decision maker.

When a decision is announced, the Long Form or Standard Form RIS provided to the decision maker will be published on the OBPR website, together with your second pass certification letter and written advice from OBPR setting out the status of the RIS.

Short Form RISs are not subject to the two-pass final assessment process and are not published. OBPR provides its assessment of the RIS in its coordination comment. The comment includes OBPR's view on what would be best practice for the appropriate form of the RIS and consultation method. If requested by a stakeholder, OBPR will publicly outline its view on the appropriate RIS form. In those circumstances OBPR will not publicly comment on the adequacy of the Short Form RIS, but will outline its assessment of the agency's compliance with RIS requirements.

How does OBPR assess the RIS?

When OBPR makes a formal assessment, it assesses your RIS against best practice requirements using the 10 principles in the *Guide to Regulation* and the seven RIS questions. You should aim to have a RIS that meets best practice requirements.

In assessing best practice, OBPR will examine whether you have adequately addressed the seven RIS questions. In particular, OBPR considers the following:

- Does your RIS simply and clearly explain the problem and your objective?
- Does it examine a range of viable, genuine policy options, including non-regulation and options put forward during consultations?
- Have the benefits and costs of all the proposed options for business, community organisations and individuals been clearly analysed in a balanced and objective manner?
- Are the regulatory costs and offsets quantified and agreed by OBPR?

[3] For Cabinet proposals, if a RIS exceeds five pages, an executive summary prepared by the department or agency and approved by OBPR is attached to the final submission; the full RIS is available to ministers on request. Note that the full RIS should be circulated for coordination comments. See Appendix 2 for the template for the Cabinet submission RIS executive summary.

- Does your RIS show how the impact of the options will be distributed across the community, including on small business?
- Does it explain the purpose and objectives of consultation (before final decision)?
- Does it include an appropriate plan for consulting those affected by the policy (before final decision)?
- Does it demonstrate that the views of affected stakeholder groups have been considered?
- Does it recommend the option with the highest net benefit?
- Does it have a clear implementation and evaluation plan?
- Does it make transparent the RIS status before each major decision point?
- Was it certified by the secretary, deputy secretary or chief executive before formal assessment?
- Was it published at the earliest opportunity following an announcement of a decision?

Failure to meet best practice requirements

If your RIS does not meet best practice, you should try to address OBPR's concerns if that is practical. For its part, OBPR will communicate the failure of the RIS to meet best practice through a range of methods, such as:

- writing to you, outlining areas of concern and suggested remedies
- briefing the Prime Minister on areas of concern
- briefing Cabinet, through coordination comment, on areas of concern
- publishing information on areas of concern in the OBPR assessment
- determining non-compliance with the RIS requirements and publishing that information, including the requirement to undertake a post-implementation review.

Non-compliance

To encourage agencies to produce the best RIS possible, OBPR generally relies on the first four options above. This reflects the fact that the RIS process is primarily the responsibility of the agency.

However, serious departures from best practice may lead to a finding of non-compliance.

Serious departures include:

- making a final decision to regulate without a RIS that has been the subject of an OBPR Final Assessment
- not publishing a RIS at the earliest opportunity following the announcement of the final decision
- not considering at least three policy options in the RIS, including the mandatory non-regulation option
- not selecting the option with the highest net benefit as the preferred option

- not conducting the appropriate form of consultation as part of the RIS process
- not addressing the seven RIS questions adequately
- not having OBPR's agreement on regulatory burden costings and offsets
- not adequately describing the RIS status at each major decision point of policy development.

Non-compliance with the RIS requirements triggers the need for a post-implementation review to be completed within two years of implementation of the policy.

Step 3: Ensuring transparency

Transparency is one of the purposes of regulatory impact analysis. The publication of RISs and information about their adequacy is critical to transparency.

RISs, certification letters and OBPR's assessments of those statements will be published on at least the OBPR website on the announcement of the policy proposal, in consultation with your agency. Where a regulation is tabled in Parliament, your RIS (or its equivalent) must be included in the explanatory memorandum (for primary legislation) or the explanatory statement (for legislative instruments). RISs for treaties will be tabled along with the final text of the treaty and the national interest analysis. Short Form RISs are not required to be published.

Post-implementation reviews certified by the relevant departmental secretary or deputy secretary (or agency head or deputy head) are published on the website once they have been assessed by OBPR as compliant with requirements for such reviews and provided to the relevant minister and the Prime Minister.

OBPR also publishes Prime Minister's exemptions, including the applicable criteria and the costing information. Agencies will not be deemed non-compliant with the RIS requirements when a Prime Minister's exemption is granted.

If a decision to regulate results in legislation, the fact that the RIS was subject to a Prime Minister's exemption should be noted in the explanatory material.

In practice, publication on the OBPR website generally occurs as soon as possible after the decision is publicly announced (for example, by media release). To assist in this process, you should notify OBPR when that occurs.

OBPR will obtain your agency's approval before publishing the RIS. The published RIS should be the RIS provided to the decision maker, subject to the exceptions discussed below. There is some limited scope for your RIS to be modified after the decision maker's consideration but before publication:

- where the RIS refers to commercial-in-confidence or national security information
- to correct minor errors, such as spelling or grammar, without substantially changing the meaning or analysis in the RIS
- to include additional relevant information that does not substantially alter the analysis in the RIS (for example, additional information about consultation processes or extra details of future reviews of the regulation)

- to update costing information, where the proposal was modified by the decision maker.

Changes of these types must be approved by OBPR before publication.

If no RIS is prepared, if your RIS is not formally assessed, or if your agency does not grant approval for publication, OBPR will make that clear on its website.

Amending offsets following the announcement of a decision

OBPR cannot assess a RIS with a net regulatory cost as adequate without a regulatory offset being identified. However, there may be instances where, for various reasons, Ministers or agencies might not want to present the offsets at the same time that the RIS is published (for example, if a decision on the policy proposal made before the offset is finalised or the decision maker does not agree with the offset).

As long as offsets are presented to the decision maker at the time of the decision, there is flexibility about the publishing of those offsets, including removing them from the Regulatory Burden and Cost Offset estimate table.[4] This includes:

- removing the offset from the RIS and replacing it with advice that an offset was provided but is yet to be agreed
- presenting the estimated offset, but without supporting information to identify the offset, in order to give a broad magnitude of the offset
- publishing all details about the offset, but noting that they are preliminary and subject to further refinement.

Placing the discussion of the offsets in a separate section of the RIS allows easy removal or updating following an announcement of a decision.

Once the offsets are finalised and agreed, the RIS can be updated on the OBPR website. If the offsets are presented in another RIS, for example as part of a larger process, they can be cross-referenced.

Reporting of compliance

OBPR monitors regulations tabled in parliament, news reports, media releases and other sources for indications that a regulatory decision has been made. Where it determines that a regulation may have been introduced, amended or removed before a RIS was completed, it contacts the agency in the first instance to obtain additional information. After consultation with the agency, OBPR determines one of the following:

- the RIS requirements have been met and no further action is required
- the process used to prepare a RIS was in some way inconsistent with the RIS requirements (the reason for this determination will be published as part of OBPR's compliance advice)

[4] See the *Regulatory Burden Measurement framework* guidance note for more information on the Regulatory Burden and Cost Offset estimate table.

- the requirement to prepare a RIS has not been met and the agency must undertake a post-implementation review (in addition, the agency will be reported as non-compliant).

If OBPR confirms that a decision on a policy proposal was made without the appropriate level of supporting analysis, it will report that on its website.

An agency may be non-compliant in Step 3 if it does not provide the RIS to OBPR as soon as practicable after a final decision is made. Non-compliance at this stage is reported on the OBPR website, but it does not trigger a requirement to complete a post-implementation review.

Web accessibility

RISs and post-implementation reviews supplied to OBPR for publication on the OBPR website must meet the Australian Government's Web Content Accessibility Guidelines (WCAG version 2).

The Australian Government, together with state and territory governments, has endorsed the guidelines for all government websites. This means that all documents published online by Australian governments must conform to the standards specified in the WCAG.

For RISs and post-implementation reviews, certain formatting and style conventions must be observed, and any PDF documents must be published in at least one alternative format, such as rich-text format or HTML. If your document contains charts and tables, you may have to do additional work and you should build that into your timeframes.

Agencies that take too long to provide web accessible versions of the RIS for publication may attract a negative comment from the OBPR or an assessment of non-compliance. Therefore, you should liaise with your web services team before drafting the RIS to ensure that the guidelines are met.

You can access the full guidelines at www.w3.org/TR/WCAG20, and you can visit the Australian Government's Web Guide at http://webguide.gov.au/accessibility-usability/accessibility.

Appendix 1: Other guidance material available

The following material provides further guidance on specific aspects of the RIS process, including the regulatory costing process, where applicable.

Best practice consultation

The *Best practice consultation* guidance note contains more detail on the application of the whole-of-government consultation principles outlined in the *Australian Government Guide to Regulation* and highlights the importance of developing a consultation strategy for policy proposals.

More information on the Government's consultation principles is available at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/002_Best_Practice_Consultation.pdf

'Is a RIS required?' form

An agency is required to contact OBPR to seek advice on whether a RIS is required for an Australian Government regulatory proposal—this is known as a Preliminary Assessment. This form will help you identify the key features of your proposal, which, in turn, will allow OBPR to quickly assess whether a RIS is required.

The 'Is a RIS required?' form is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/003_AG_Preliminary_Assessment_Form.pdf

Carve-outs

OBPR is responsible for advising government agencies on whether RISs are required. To make this process more efficient, OBPR grants 'carve-outs'.

A carve-out is a standing agreement between OBPR and an agency that removes the need for a Preliminary Assessment to be sent to OBPR for minor or machinery changes that occur regularly. This reduces the workload for both parties while ensuring consistent advice on whether or not a RIS is required.

A carve-out can be used for regulatory changes that occur on a regular basis, are minor or machinery in nature, and are consistent with the requirements in the *Guide to Regulation*. Possible categories of carve-outs include indexation changes and routine administrative changes. Carve-outs are not applicable to Cabinet submissions.

More information on carve-outs is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/004_Carve_Outs.pdf

Regulatory Burden Measurement framework

All proposals must quantify the regulatory costs to business, community organisations and/or individuals and identify offsets using the Regulatory Burden Measurement framework. As a minimum, the framework includes consideration of:

- administrative costs
- substantive compliance costs

- delay costs.

Further information on the framework is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/005_Regulatory_Burden_Measurement_Framework.pdf

Regulatory Burden Measure

You should use the Regulatory Burden Measure (RBM, formerly known as the Business Cost Calculator) to quantify the regulatory costs and offsets for your proposal. The RBM has associated documentation to help you understand each section of the measure and what information is required.

The RBM is available at: https://rbm.obpr.gov.au/

Cost-benefit analysis

The Australian Government is committed to the use of cost–benefit analysis to assess regulatory proposals and encourage better decision making. A cost–benefit analysis involves a systematic evaluation of the impacts of a proposal, accounting for all the effects on the community and economy—not just the immediate or direct effects, financial effects or effects on one group. It emphasises valuing the gains and losses from a regulatory proposal in monetary terms as far as possible.

More information on conducting a cost–benefit analysis is available at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/006_Cost-benefit_analysis.pdf

Individuals

The trigger for preparing a RIS has been expanded to capture impacts on individuals, reflecting the significant regulatory burden experienced by individuals and the Government's objective of reducing it.

The *Individuals* guidance note helps agencies to understand when a RIS may be required for proposals that affect individuals and provide guidance on how to quantify the regulatory costs on individuals.

The guidance note is available at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/007_Individuals.pdf

Commonwealth programmes

Red tape burden imposed by the Commonwealth's procurement, grants and cost recovery frameworks is now included in the definition of regulation.

The *Commonwealth programmes* guidance note provides additional information to help agencies understand when a RIS is required for government benefits, grants, procurement and cost recovery proposals and how to quantify the regulatory costs of those proposals.

The guidance note is available at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/008_Commonwealth_Programmes.pdf

Short Form RIS templates

This document provides guidance and templates for preparing Short Form RISs for proposals being considered by the Cabinet.

It is available at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/009_Short-form_RIS_templates.pdf

Competition and regulation

RISs for policy proposals that restrict competition are required to demonstrate that the benefits to the community outweigh the costs, and that there are no alternative means of achieving the same objective without restricting competition. The *Competition and regulation* guidance note outlines how OBPR assesses whether a proposal restricts competition, and how such a proposal would be justified in the RIS.

The guidance note is available at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/010_Competition_and_Regulation.pdf

Risk analysis in RISs

Government regulation rarely deals with certainties, but is often designed to reduce the likelihood of harmful or hazardous events occurring.

Given the importance of risk-related regulation, OBPR has prepared a guidance note on approaches to evaluating regulation aimed at managing risks. An effective approach to risk management requires that agencies develop a thorough understanding of the risks they are seeking to manage. This can be achieved by soundly applying risk analysis and economic evaluation principles.

More information on dealing with risk in RISs is available in the *Risk analysis in Regulation Impact Statements* guidance note at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/011_Risk.pdf

Environmental valuation

Analyses of projects or policies that affect environmental assets should take into account the benefits that those assets provide to the community. However, unlike many other assets, environmental assets can be difficult to account for in project and policy analyses because the benefits that some of them provide can be hard to understand and because our scientific knowledge of many environmental processes is limited.

OBPR has developed a framework to analyse how decisions can affect environmental assets and the benefits they provide. While the framework is broadly applicable, its main aim is to inform the development of RISs.

The *Environmental evaluation and uncertainty* guidance note is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/012_Environment.pdf

Community organisations

Because community organisations function in different ways from commercial businesses, they should be considered separately when assessing the impact of a proposal. OBPR's *Community organisations* guidance note aims to help agencies gain a better understanding of the types of issues they should be considering if they are proposing a regulatory change that may affect community organisations. This will help to ensure that those impacts are recognised early in the policy process and discussed thoroughly in the RIS, where appropriate.

The guidance note is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/013_Community_organisations.pdf

Trade impact assessments

If a policy proposal has a direct bearing on trade performance, a trade impact assessment should be incorporated into the implementation section of the RIS. The assessment should summarise the impact of regulatory options and proposals on exporters and importers and assess the overall impact on Australia's international trade. OBPR's *Trade impact assessments* guidance note provides more detailed information on how to complete an assessment.

The guidance note is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/014_Trade_Impact_Assessments.pdf

Independent reviews and the RIS process

If an independent review or other mechanism has undertaken analysis equivalent to a RIS, the independent review can substitute for the RIS. OBPR has prepared the guidance note *Independent reviews and the RIS process* to help agencies understand the use of independent reviews in the RIS process.

The guidance note is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/015_Independent_reviews.pdf

Sunsetting legislative instruments

Under the *Legislative Instruments Act 2003*, all legislative instruments 'sunset', or cease automatically, after 10 years, unless action is taken to remake them or they are otherwise exempt. Some instruments may have impacts on business, community organisations or individuals, so changes to their future operation fall within the scope of the RIS requirements. However, some streamlined administrative processes apply to sunsetting instruments and a RIS may not need to be prepared in all circumstances.

The *Sunsetting legislative instruments* guidance note is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/016_Sunsetting.pdf

Post-implementation reviews

Where a proposal proceeds (either through the Cabinet or another decision maker) without an adequate RIS, the resulting regulation must be the subject of a post-implementation review (PIR) regardless of whether or not a Prime Minister's exemption from the RIS requirements was granted. PIRs must also be undertaken for all regulatory changes that have major impacts on the economy.

For regulations assessed by OBPR as having a major impact on the Australian economy, a PIR must be completed within five years following the implementation of the regulations. All other PIRs should be completed within two years of the regulations being implemented.

A PIR should outline the original problem and the Government's objectives, provide evidence of the impacts of the regulation, analyse those impacts, present findings from consultations, and reach a conclusion. The impact analysis for a PIR should include information about regulatory costs. Stakeholder consultation is essential and is a key part of a PIR.

A PIR's conclusion should provide an assessment, based on the available evidence, of how effective and efficient the regulation has been in meeting its original objectives and whether the regulation remains appropriate.

The *Post-implementation reviews* guidance note is at: http://www.dpmc.gov.au/deregulation/obpr/reporting-publications/publications/guidance/docs/017_Post-implementation_reviews.pdf

Appendix 2: Template for Cabinet submission RIS executive summary[5]

Regulation Impact Statement Executive Summary

Title of regulatory proposal

Regulatory costs	+/– $0.0 million
Have offsets been provided?	Yes / No / Not required

RIS preferred option

- Outline preferred option. Note whether the preferred option is only marginally preferred to another option.

Key points from the RIS

- What is the problem being addressed?
- Why is the preferred option recommended?
- Summarise any key facts.
- This measure imposes $X regulatory costs on businesses, $Y regulatory costs on community organisations and $Z regulatory costs on individuals <delete categories as required>.
- This is offset by $A cost reduction for businesses, $B cost reduction for community organisations and $C cost reduction for individuals <delete categories as required>.

Benefits

- What are the main benefits? Who are the main beneficiaries?
- Can the benefits be quantified? If not, why not?

Costs

- What are the main costs? Who pays the costs? Discuss all costs imposed on stakeholders.

Regulatory costs and offsets

- In relation to the regulatory costs, who is the cost or saving imposed on?
- Has an offset been identified or is the proposal deregulatory?
- If an offset was identified, discuss the offset and include information on the sector in which the offset is felt.
- Has a costing extension been granted? If so, for how long?

Stakeholder views on the preferred option

- What are the key messages from the consultation?
- List supporting stakeholders.
- List opposing stakeholders.

Other options in the RIS

- Identify other options discussed in the RIS.
- Include the key reasons for rejecting those options.

[5] The Cabinet submission RIS executive summary must not exceed five pages.